

MAY 23 2006**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT****ROBERT LEYSER,****Plaintiff - Appellant,****v.****TED D'AMICO; et al.,****Defendants - Appellees.****No. 05-15758****D.C. No. CV-04-00044-ECR****MEMORANDUM***

**Appeal from the United States District Court
for the District of Nevada
Edward C. Reed, District Judge, Presiding**

Submitted May 15, 2006**

Before: B. FLETCHER, TROTT, and CALLAHAN, Circuit Judges.

Robert Leyser, a Nevada state prisoner, appeals pro se from the district court's summary judgment for defendants in his 42 U.S.C. § 1983 action alleging defendants' failure to approve recommended cataract surgery amounted to

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

deliberate indifference. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Jones v. Blanas*, 393 F.3d 918, 926 (9th Cir. 2004), and we affirm.

The district court properly granted summary judgment in favor of the Nevada prison defendants, because the record contains no admissible evidence showing the prison Utilization Review Panel's ("URP") denial of cataract surgery led to further injury to Leyser's eye. *See Shapley v. Nevada Bd. of State Prison Comm'rs*, 766 F.2d 404, 407 (9th Cir. 1985) (per curiam) (a delay in medical treatment must lead to further injury to support a claim for deliberate indifference). Moreover, Leyser failed to create a genuine issue of material fact as to whether defendants violated his Eighth Amendment rights, because the difference of opinion between URP physicians and Leyser's treating physician does not amount to deliberate indifference. *See Sanchez v. Vild*, 891 F.2d 240, 242 (9th Cir. 1989).

The remaining contentions lack merit.

AFFIRMED.